

The Honorable Samuel J. Steiner
Chapter 13
US Courthouse, Courtroom 8206
Hearing Date: August 18, 2010
Hearing Time: 9:30 am
Response Due: August 11, 2010

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE
WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

In Re:

ZHI GANG JIANG and YUEHUA WU,

Debtors.

No. 10-10009-SJS

**MOTION FOR RELIEF FROM STAY OR IN
THE ALTERNATIVE FOR ADEQUATE
PROTECTION AND NOTICE OF HEARING**

NOTICE

A hearing on Bank of America's motion will take place on the August 18, 2010 at 9:30 am at the US Courthouse, 700 Stewart Street, Courtroom 8206, Seattle, Washington. Any response must be filed and served prior to the above response date. If no response is filed within the time allowed, the Court may in its discretion grant the motion prior to the hearing without further notice.

MOTION

Bank of America, N.A. (hereinafter known as "Bank of America"), moves the Court for an order terminating the automatic stay pursuant to 11 U.S.C. Sections 362 (d)(1) and 362 (d)(2) to permit it and its designated trustee (1) to complete its foreclosure on the following property pursuant to its deed of trust:

LOT 12 OF TRACT NUMBER C IN CAMBRIDGE HEIGHTS SUBDIVISION, CITY OF KIRKLAND, COUNTY OF KING, IN THE STATE OF WA. AS RECORDED IN MB 184 PG95-98 WITH THE APPURTENANCES THERETO.

Commonly known as: 13359 NE 134th Place
Kirkland, WA 98034

1 (2) to take any other action to acquire possession of the property as a result of the foreclosure; and (3) to take
2 any other action permitted under its deed of trust including recovery of attorneys' fees incurred by Bank of
3 America in this proceeding. In the alternative, Bank of America moves the Court for an order providing
4 adequate protection for its security. In addition, Bank of America also moves that enforcement of this order
5 shall not be stayed pursuant to BR 4001 and that this order shall be binding in any proceeding to which this
6 proceeding is converted and that the order be binding regardless of any subsequent confirmed plan or amended
7 plan.
8

9 This motion is made on the grounds that (1) the debtors have failed to maintain the mortgage
10 payments; (2) the moving party's security interest in the property is not being adequately protected; and (3)
11 there is no equity in the property and it is not necessary for an effective reorganization.
12

13 Obligation and Collateral. Bank of America is the holder and owner of a note in the original amount of
14 \$146,000.00 executed on September 5, 2006, by Yuehua Wu and Zhigang Jiang. This note is secured by a
15 deed of trust of even date on the real property described in the motion, of which the debtors in this bankruptcy
16 proceeding are now the owners.
17

18 Status of Loan and Foreclosure. The debtors are contractually delinquent on the variable monthly
19 payments for April 11, 2009 and each month thereafter. There is no foreclosure sale pending.
20

21 Status of Bankruptcy. There is no provision for payment of the secured obligation to Bank of
22 America.
23

24 Balance Owning. The principal balance owing on said note is \$145,838.77, and interest thereon has
25 accrued from March 11, 2009 at a variable rate per annum. Late charges have accrued as of the date this
26 declaration was executed and will continue to accrue each month on any payments not made by the due date.
The total amount owing on the debt exceeds \$150,226.30. This total is an approximation of the lien and is

provided only for the purposes of this motion. This figure cannot be relied upon for any other purpose
MOTION FOR RELIEF FROM STAY OR IN THE
ALTERNATIVE FOR ADEQUATE PROTECTION - 2

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1 including tender of payoff funds. An exact, itemized payoff figure can be obtained from Bank of America
2 upon written request to counsel for Bank of America.

3 Other Liens. According to Schedule D, there is a senior deed of trust in favor of Provident Funding
4 Association in the amount of \$340,132.00.

5 Value. The property is valued at \$403,000.00 in the bankruptcy schedules.

6 This motion is based on the motion, the declaration of Calvin Vaughn and the records and files herein.
7
8 A proposed order is attached.

9 Dated this 6th day of June, 2010.

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12 By: /s/ Daniel L. Hembree
13 Daniel L. Hembree, WSBA# 37109
14 Bishop, White, Marshall & Weibel, P.S.
15 Attorneys for Secured Creditor
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